(1)

Supreme Court, U.S.
FILED

021465 MAR 26 2003

No._____

In The

Supreme Court of the United States

Julian C. Godwin,
Petitioner

v.

Alabama Supreme Court Chief Justice Roy S. Moore
Alabama Circuit Court of Appeals Judge Sharon Yates
Alabama Circuit Court Special Judge William R. King, III, et al, individually
Respondents

On Petition for Writ of Certiorari
To the United States Court of Appeals
For the Eleventh Circuit
(11th Cir. Judges Anderson, Black, Marcus)

PETITION FOR A WRIT OF CERTIORARI

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56 pp

QUESTIONS PRESENTED

Whether a party, whose Civil Rights were violated by the Courts and Judges, both individually and in their capacity as officials of the State of Alabama can claim injury without invoking the Rooker-Feldman Doctrine.

Whether the party claiming injury had a reasonable opportunity to raise constitutional claims in state courts.

Whether the party's claims were inextricably intertwined with the state court judgments.

Whether state court judges, individually or in their official capacity, are immune from claims of Civil Rights violations claimed by a citizen.

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PETITION FOR WRIT OF CERTIORARI

Petitioner requests that a writ of certiorari be issued to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case.

OPINION BELOW

The judgment on December 13, 2002 overruling an application for Rehearing by the United States Court of Appeals for the Eleventh Circuit is Appendix A.

The United States Court of Civil Appeals for the Eleventh Circuit judgment on August 9, 2002 AFFIRMED, per curiam, the Dismissal of the Plaintiff Complaint by the United States District Court of the Middle District of Alabama.

The United States District Court of the Middle District of Alabama ordered the dismissal of Plaintiff Complaint on December 11, 2001.

STATEMENT OF JURISDICTION

The judgment of the United States District Court of the Middle District of Alabama was entered on December 11, 2001 (Appendix E). The judgment of the United States Court of Appeals for the Eleventh Circuit AFFIRMING the District Court order of Dismissal of Petitioner Godwin's Complaint was entered on August 9, 2002 (Appendix B). The United States Court of Appeals for the Eleventh Circuit denied Petitioner Godwin a timely Petition for Rehearing on December 13, 2002 (Appendix A).

The jurisdiction of this Court is invoked under 28 U.S.C. Section 1254 (1).

STATUTES INVOLVED IN THIS CASE

The US Constitutional Amendment XIV provides that no State shall deprive any person of his Civil Rights without due process of law nor deny the equal protection of the laws.

The US Constitutional Amendment VII provides that the right of Trial by Jury shall be preserved according to the rules of the common law.

Section 2 of the 1871 Civil Rights Act, 17 Stat., provided for the equal protection of the laws and this Act is enforced in

USC Title 42, Sec. 1985: Paragraph (2) provides that if two or more persons enter a court and conspires, injures, and threatens citizen then that citizen, pursuant to Paragraph (3), may hold the conspirators accountable.

USC Title 42, Section 1983, provides that a citizen who is injured or deprived of his rights by a State rule or regulation shall have injunctive relief and redress.

USC Title 42, Section 1986, provides that a person having knowledge of the wrongs committed under Section 1985, and having power to prevent shall be liable.

USC Title 18, Section 242, Deprivation of Rights Under Color of Law

USC Title 28, Section 1343, Civil Rights and Elective Franchise

STATEMENT OF THE CASE

In attempting to enforce his Civil Rights in the State of Alabama Courts, every Court in Alabama has DENIED Petitioner Godwin the right to seek any redress of the violation of Petitioner's Civil Rights.

Doris Nichols, a frail and weak widow, was under the care of her sister, Gwen Warren. The brother, Petitioner Julian Godwin, was also assisting. While attending Doris' physical ills at a hospital in Dothan, Alabama during August 1993, Gwen asked the Neurologist there to conduct mental examinations because of signs of mental incapacity shown by Doris.

Doctors there declared her mentally incompetent because of developing Alzheimer's Dementia. Doris' family doctors, after further tests, subsequently agreed to the diagnosis. Due to very poor physical and mental health, Doris had previously entrusted her personal estate and financial duties and responsibilities to Sister Gwen and Petitioner Godwin.

Both were later nameGuardians/Conservators after the Probate Court of Coffee County declared Doris incompetent.

Doris died in 1995 and Gwen, through proper Probate of a 1991 Last Will and Testament, was named Executrix soon after her death. Loftin Martin, a non-family member, contested the 1991 Will and introduced a 1993 Will. Gwen contested and the 1993 Will was sent to Circuit Court of Coffee County, Alabama.

Gwen also died in 1995 and the Probate Court of Coffee County Alabama named Petitioner Godwin, the brother of Doris, Personal Representative. An attorney arranged the paperwork with the Probate Court but was later dismissed. Petitioner Godwin then assumed the duties of Personal Representative of the Doris Nichols Estate without an attorney.

Godwin, maintaining that the 1991 Will was valid, contested the 1993 Will in Circuit Court. Godwin avers that Doris was coerced and cajoled into signing the 1993 Will since the Doctors' diagnosis essentially stated that Doris did not have the mental capacity to sign such an important document.

With this background, this Case before the US District Court of the Middle District of Alabama and the US Court of Civil Appeals of the Eleventh Circuit, sets forth the Petitioner's attempts to right the wrongs of the Alabama

Courts and Judges both in their official capacity and individual capacity (the Defendants).

Defendants have violated Plaintiff's Civil Rights and caused severe personal injury and Plaintiff demands relief and remedy in the US Federal Courts under the authority and provisions of the US Constitution, Amendment XIV, Amendment VII, as enforced by USC 42, Section 1983, USC 42, Section 1985 (2)(3), and USC 42, Section 1986. Federal jurisdiction is therefore premised on US Code 28, Sections 1331, 1343, and 1443.

An Alabama Circuit Court Judge, et al, has caused Plaintiff grave personal injury by DENIAL of a common and Constitutional right to a JURY TRIAL and revoking his right to represent and protect his dead sister's (Doris Nichols) assets. Persons, not a party to a Circuit Court of Alabama Case, conspired against Plaintiff and were permitted by the Circuit Court to proceed conspiratorially, to deprive Plaintiff of Civil Rights due him under the US Constitution. The Circuit Judge also held a "closed" court hearing and dismissed two separate complaints without hearing motions and evidence of the Plaintiff. The Circuit Judge revoked Probate Court Orders and otherwise rendered Plaintiff unable to administer and protect his sister's Estate.

Plaintiff was deprived of his rights by Alabama Civil Appeals Court Judge, et al, claiming that Plaintiff was Practicing Law but instead, violated Plaintiff's rights under the US Constitution, Amend.

XIV, Due Process. Plaintiff was attempting to recover Real Property fraudulently taken from Doris Nichols, sister of Plaintiff, while she was alive. The Complaint was dismissed. The Alabama Civil Appeals Court Judge, et al, also DENIED Plaintiff a JURY TRIAL.

Alabama Supreme Court Chief Justice, et al, denied a Petition for a Writ of Mandamus to be issued against the Circuit Court Judge. The Writ claimed Plaintiff was denied a Jury Trial by the Circuit Court Judge and the Civil Appeals Court Judge, et al. The Chief Justice DENIED the WRIT. Plaintiff claimed in the Writ that the Circuit Court Judge had denied Due Process by revoking Probate Court Orders, without cause, the Order that named Plaintiff Administrator of the Doris Nichols Estate. The Chief Justice denied the Writ. Plaintiff claimed violation by the Circuit Court Judge of Due Process by the act of holding a "closed" hearing without hearing motions and evidence of the Plaintiff. The Chief Justice denied the Writ.

PLAINTIFF HAS EXHAUSTED ALL AVENUES OF REMEDY IN THE STATE OF ALABAMA FOR WRONGS HEAPED UPON HIM. THE COMPLAINT AGAINST THE ALABAMA COURTS AND JUDGES, ET AL, INDVIDUALLY AND IN THEIR CAPACITY AS JUDGES, WAS SUBMITTED TO OBTAIN JUSTICE THROUGH US CONSTITUTIONAL MEANS FOR DEPRIVATION OF A CITIZEN'S RIGHTS. The Defendants have denied Plaintiff a JURY TRIAL and denied Plaintiff DUE PROCESS in the Courts of Alabama and action and jurisdiction is therefore a Cause of Action in the Federal Courts under

provisions STATED in this Statement of the Case.

This Complaint revolves around three civil actions (and six other related cases) in the 12th Circuit Court of Coffee County Alabama. SIX Alabama Judges recused themselves in the 12th Circuit from any involvement in the Doris Nichols Estate or any matters with the name Godwin attached to the Case (s) for reasons only known to themselves.

A Circuit Court Judge was assigned as a Special Judge to hear and dispose of NINE cases in the 12th Circuit involving the Doris Nichols Estate.

One sister died (Doris Nichols) in 1995 and left all her assets to another sister, Gwen Warren, who then probated Doris' Will (the ORIGINAL WILL of 1991) and Letters Testamentary was issued by the Probate Court of Coffee County. Adversarial attorneys appealed the Probate Court Order naming Gwen Warren Executor of the Doris Nichols Estate. The Probate Court DENIED the Appeal. The attorneys then filed an Appeal to revoke Gwen Warren's Letters Testamentary into Circuit Court.

Gwen died in 1995 and Plaintiff, the brother of Doris and Gwen, was named Personal Representative by Coffee County Probate Court Order, of the Doris Nichols Estate. The Special Circuit Judge summarily REVOKED, without cause stated, the orders of the Probate Court naming Plaintiff Administrator; This Discretionary

Abuse of Judicial Power deprived Plaintiff of the basic Civil Right to represent Plaintiff's sister's Estate. If such deprivation of Rights was due to Plaintiff acting in the capacity of an Administrator without attorney representation, the deprivation was wrongfully applied. The Alabama Law governing use of an attorney in Wills and Estates s Code of Alabama, 1975, Section 34-3-6. The Circuit Court Judge undoubtedly claimed that Plaintiff could not represent an Estate even though the Court of Primary Jurisdiction Probate Court) issued Orders allowing such Representation. The PROBATE COURT ORDER does not specify that an Attorney must be hired o REPRESENT the ESTATE. Plaintiff claims the Alabama Law, in its present form, is UNCONSTITUTIONAL and DENYS and DEPRIVES the Civil Rights of Plaintiff Godwin to act in representing his Sister's Estate. Plaintiff claims that The Circuit Court Judge thus deprived Plaintiff of his right and duty to oversee the assets of his sisters Estate, which is guaranteed under provisions of Due Process, US Constitution, Amend. XIV, as enforced by USC 42, Section 1983.
A Second Will, fraudulently drawn up by adversarial attorneys, was also introduced into Probate Court. The Probate Court DENIED the Second Will since the "First" Will had already been probated. The attorneys then introduced the Second Will into the Circuit Court CV Case 95-248, 12th Circuit Court.

The Circuit Court Judge held a "hearing" on THREE of the NINE cases on 29 September

2000, which included the Second Will Case.

The Circuit Court Judge immediately summarily DISMISSED TWO of the NINE cases in a "closed" court without hearing motions or evidence, a CAUSE of ACTION denying DUE PROCESS under the US Constitution, Amendment XIV. A Motion by Plaintiff was filed to Recuse the Circuit Court Judge because of such violations. The Circuit Court Judge dismissed the motion.

One of the two cases dismissed involved REAL PROPERTY. The Circuit Court Judge dismissed the Real Property during a "closed door" hearing and did not allow motions and evidence to be presented by Plaintiff Godwin, thus denying Plaintiff Godwin Due Process rights under the US Constitution, AMENDMENT XIV, and enforced by USC 42, Section 1983. The Complaint involved the taking of Real Property from Doris Nichols while she was still alive. After she died, Plaintiff hired an ATTORNEY to file a Complaint to get the Property back to the Doris Nichols Estate. Plaintiff, as a Pro Se, AMENDED the Complaint in an attempt to get the Real Property back to the rightful owner, the Doris Nichols Estate. After the Circuit Court Judge dismissed the Real Property Case, Plaintiff filed an APPEAL to the Alabama Court of Civil Appeals. The adversaries filed a Motion to DENY the Appeal based ONLY on allegations that Plaintiff was "Practicing Law". The Alabama Civil Appeals Court Judge, et al, affirmed the Motion to DENY and dismissed the Real Property Complaint, thus DEPRIVING Plaintiff

the right to protect and restore Real Property to the Estate.

Such DISCRETIONARY abuse of judicial power by the Alabama Civil Appeals Court Judge, et al, violated Plaintiff's guaranteed rights under the Constitution, Amendment XIV, DUE PROCESS as enforced by USC 42, Section 1983. The Civil Appeals Judge, et al, based the decision to DISMISS on a FLAWED Alabama Law (Code of Alabama 1975, Section 34-3-6), depriving Plaintiff of exercising basic RIGHTS to defend himself WITHOUT use of an attorney, NOT a requirement under any Federal Statues or the US Constitution. The Alabama Law that the Civil Appeals Judge, et al, relied on and used Discretionary Power to enforce DENIED Plaintiff his Civil Rights to represent his dead sister's Estate. Such abuse of RIGHTS under the flawed Alabama law deprived Plaintiff from claiming rights under the Constitutional Amendment XIV, guaranteeing DUE PROCESS, as enforced by USC 42, Section 1983.

Plaintiff, as the DEFENDANT in the THIRD CASE, the "Second Will" case, Circuit CV Case 95-248, contested the Second Will as fraudulent. After the hearing on 29 September 2000 of the Wills Case CV 95-248, the Circuit Court Judge revoked, without cause, Personal Representative Probate Court Orders, thus denying Plaintiff RIGHT of Due Process under the US Constitution, Amendment XIV, DUE PROCESS and revoked the right to a JURY TRIAL under provisions of US Constitution, Amendment VII, as enforced by USC 42, Section

1983.

Plaintiff (DEFENDANT in the CIRCUIT COURT CASE of a Second Will) appealed to the Alabama Circuit Court of Appeals on 12 December 2000 with a MOTION to allow an Appeal to go forward because of the violation of Civil Rights. The Civil Appeals Court Judge, et al, denied the appeal as not from a final judgment, thus forcing Plaintiff to be a party to a NON-JURY TRIAL and THEN Appeal, after the fact, that a JURY TRIAL was denied. The Civil Appeals Court Judge, et al, denied plaintiff rights for a JURY TRIAL and violated Plaintiff's rights guaranteed by the US Constitution, Amendment VII, AS ENFORCED BY US Code 42, 1983.

Plaintiff demanded a Jury Trial on 9 October 2000 and paid the proper fees. Another hearing by the Circuit Court Judge on 6 December 2001 further compounded the injury against Plaintiff by the Circuit Court Judge, which solidified the DENIAL of a JURY TRIAL. The Circuit Court Judge again violated Plaintiff's right for a Jury Trial guaranteed by the US Constitution, Amendment VII, as enforced by US Code 42, Section 1983.

During the same Hearing, the Circuit Court Judge violated provisions of the US Constitution, Amendment XIV, Due Process, as enforced by USC 42, Section 1985 (2)(3) by allowing two persons to enter the Court and proceed, conspiratorially, to DENY Plaintiff's Civil Rights. The two persons entered a Motion to the court,

although non-parties, and threatened and intimidated Plaintiff. The Circuit Court Judge was aware of the non-standing of the two people but nevertheless allowed the intervention resulting in the Circuit Court Judge also violating the provisions of Title 42, Section 1986 by neglecting to prevent such deprivation of Plaintiff's rights and resulting in grave personal njury to Plaintiff. The Circuit Court Judge, AGAIN, for the third time, denied a JURY TRIAL by allowing the two non-standing persons, adversarial attorneys, to claim that Jury fees were paid too late. The Circuit Court Judge allowed the Motion and acted on it to the detriment of the Plaintiff.

Plaintiff MOVED for reconsideration and submitted Case law from the Alabama Court of Civil Appeals which stated that late payment of Jury fees could not be used to DENY a JURY TRIAL. The Circuit Court Judge DENIED Motion to Reconsider, and by ABUSE of such Discretionary power, violated the Civil Rights of Plaintiff protected under provisions of the US Constitution, Amendment VII, as enforced by USC 42, Section 1983.

Plaintiff filed a Motion with the Court of Civil Appeals Judge, et al, to RECONSIDER the Appeal for a Jury Trial. Again, the Alabama Civil Appeals Court Case Law about late payment of Jury Fees was cited. The Civil Appeals Court Judge, et al, DENIED the Motion as untimely. This action by the Civil Appeals Judge, et al, was abuse of discretionary powers and violated rights of Plaintiff under the US Constitution,

Amendment XIV, Due Process, and Amendment VII, Jury Trial, as enforced by USC 42, Section 1983.

A family member of the Plaintiff filed a Motion to Intervene in Alabama CV CASE 95-248, the Second Wills Case, and to CONTEST the Second Will as fraudulent. In a Hearing on 30 January 2001, the Circuit Court Judge recognized that the family member had standing and would allow him to intervene in the Case conditionally; the family member must apologize for cartoons he had drawn which the Circuit Court Judge found distasteful. If the family member chose to intervene, the family member must apologize for the cartoons. If he did not apologize, and insisted on intervening in the Case, then the Circuit Court Judge vowed he would put Robert L. Godwin in JAIL. The family member filed a Complaint with the Judicial Inquiry Commission specifying the Circuit Court Judge's misconduct, violation of Canons of Judicial Ethics and general disdain of the family member's Civil Rights. The Judicial Inquiry Commission denied the Complaint. The family member believed the Circuit Court Judge treaded on his Freedom of Expression Rights guaranteed by the US Constitution. Such conduct by the Circuit Court Judge further serves to support Plaintiff's claim that Plaintiff's Civil Rights have been abridged by the Circuit Court Judge. Such Discretionary ABUSE of power injured Plaintiff and denied Plaintiff the RIGHT to have family members assist in the CASE at hand and prevent Plaintiff from seeking means to support the ISSUE of the purported

fraudulent Second Will. The Circuit Court Judge thus deprived Plaintiff of Due Process and the right to proceed in a CIVIL Case under provisions of the US Constitution, Amendment XIV, as enforced by USC 42, Section 1983.

Unable to obtain any remedy for the wrongs done to Plaintiff, no other course was left but to APPEAL to the Chief Justice, et al, of the Alabama Supreme Court. On 16 February 2001, Plaintiff filed a Writ of Mandamus to issue against the Circuit Court Judge, outlining in detail the civil rights violations against Plaintiff by the Circuit Court Judge, specifically, denial of a JURY TRIAL and the revocation of Probate Court orders naming Plaintiff as Personal Representative. The Chief Justice denied the Civil Rights of Plaintiff to represent his dead sister's Estate WITHOUT attorney representation. Apparently relying on Alabama Code 34-3-6 (applying to Practice of law without a license), the Chief Justice allowed REVOCATION of Probate Court Orders. Therefore, the Chief Justice, et al, violated the provisions of the US Constitutional Right of DUE PROCESS and deprived Plaintiff of his Civil Rights.

All violations of Plaintiff's Civil Rights against the Alabama Circuit Court Judge, the Alabama Civil Appeals Court Judge, et al, specified in this STATEMENT OF THE CASE, shall be considered specified and stated to include the Chief Justice of the Alabama Supreme Court, et al, individually and in the capacity of sitting judges.

Plaintiff avers that Defendants have caused

Plaintiff personal injury by denial of basic common-law rights and privileges by the Constitution and Laws of the United States. Defendants have placed every obstacle before Plaintiff that renders Plaintiff unable to exercise those RIGHTS.

The Magistrate Judge of the US District Court of the Middle District of Alabama, after extensive and exhaustive research filling fourteen pages, concluded that the above CIVIL RIGHTS charges, as related in this STATEMENT OF THE CASE, against the Alabama Courts and Judges, had no substance and the Rooker-Feldman Doctrine applies (Appendix C, page 7a).

The US District Court concurred with the findings of the Magistrate Judge and ordered the Complaint DISMISSED (Appendix E, Page 25).

The United States Court of Appeals for the Eleventh Circuit AFFIRMED the District Court order to DISMISS Plaintiff's Complaint (Appendix B, Page 2a).

REASONS FOR GRANTING THE WRIT

The 11th Cir. AFFIRMED the US District Court's ruling to DENY Petitioner Godwin's claim of Civil Rights violations against the DEFENDANTS. This ruling of 9 August 2002 by the 11th Cir. is Appendix B, page 2a.

Petitioner avers that the 11th Cir. erred in affirming the US District Court's dismissal. The

reasons supporting Petitioner's Claim of Civil Rights violations and injuries by the Defendants and that Petitioner's claims do qualify for federal jurisdiction follow.

The 11th Cir. in the Affirmation Order , Appendix B, page 2a, makes statements about the Case that do not, in the opinion of the Petitioner, follow the tenets of the Basic Complaint and the Statement of the Case above. The Basic Complaint lists several violations outside the WILLS Case which the 11th Cir. apparently did not address as discussed in the Statement of the Case above.

Two other 11th Cir. Cases, 01-011810-F, Godwin V. Marsh, et al and 01-15525-A, Martin v. Godwin (both dismissed by the 11th Cir. but being considered separately with this Case at the same period of time) are "inextricably entwined" with this Case and would have weighed heavily in Appellant's favor had the 11th Cir. not denied the Motion to Consolidate **ALL THREE** Cases before the 11th Cir.

One of the three Cases, 11th Cir. Case 01-15525-A, Martin v. Godwin, was an attempt by Petitioner to REMOVE a WILLS Case to federal Jurisdiction. Petitioner was also appealing the Wills Case through the Appeals process in Alabama Courts which failed. Petitioner had no other recourse but to appeal the Wills Case to the Supreme Court of the United States.

Petitioner claims undue suffering and that the Courts treat his suffering as unsubstantiated and "failure to state a claim". ALL ACTIONS in ALL Courts by the Petitioner to obtain recognition of his rights relate back to the initial actions involving the coercion of a sick Sister in 1993/1994 by adversarial attorneys. The Basic Complaint against the Defendants as related in the Statement of the Case above reach far beyond the Wills Case.

The 11th Cir. claims the contest of the Wills Case by the Petitioner is the basis for invoking the Rooker-Feldman Doctrine. Petitioner claims the Rooker-Feldman Doctrine does not apply as a basis for Dismissal since US Constitutional Charges were specified OVER AND BEYOND the Wills Case as specified in the Statement of the Case above. Accordingly, *205 F. 3d 990 (7th Cir. 2000). Remer v.Burlington area School District,* supports Appellant's claim that the US District Court does have subject matter jurisdiction.

Further, the Rooker-Feldman Doctrine has been erroneously applied to Petitioner's claims of Civil Rights violations. **"... this court has consistently held that where a state action does not reach the merits of a plaintiff's claims, then Rooker-Feldman does not deprive the federal court of jurisdiction..."** is a quote from *Whiteford v. Reed, 3rd Cir., No 97-3652 (9 Sep 1998).* This 3rd Cir. Case supports Petitioner's claim that the LACK of judicial judgments in the State Courts and the personal

injuries caused by the Judges of Alabama, both individually and in their official capacity, go UNREMEDIED.

The Defendants claim that judges have immunity in this case has no merit. Injunctive relief can be granted under provisions of the USC Title 42, Section 1983, since the Constitutional violations specified in the Basic Complaint as related in the Statement of the Case above were not considered on their merits and were, in fact, ignored.

In conclusion, Petitioner Godwin claims that the Rooker-Feldman Doctrine has been erroneously applied. Only one element in this CIVIL RIGHTS Case, the Contest of the Wills Case, can be considered as falling within the purview of the narrowly applied Rooker-Feldman Doctrine.

The 11th Cir. decision to apply the Rooker-Feldman Doctrine to the entire range of Petitioner's Civil Rights violation claims has limited and is preventing Petitioner's right to seek remedy in a federal court, **DENIED HIM BY THE US COURT OF APPEALS FOR THE ELEVENTH CIRCUIT AND ALABAMA STATE COURTS AND ALABAMA OFFICALS, BOTH INDIVIDUALLY AND IN THEIR OFFICIAL CAPACITY AS JUDGES.**

The Arguments below will support the reasons for granting the writ.

ARGUMENT

The Statement Of the Case above of Petitioner Godwin explicitly states that his Civil Rights were violated and charges against Moore, et al, (Defendants) were brought under provisions (among others) of USC Title 42, Section 1983, Civil Action for Deprivation of Rights and USC Title 28, Section 1343, Civil Rights and Elective Franchise.

The Defendants, The US District Court of the Middle District of Alabama, and the US Court of Appeals for the 11th Circuit, claim that the Dismissal of Godwin's Claim should be upheld on the basis of the Rooker-Feldman Doctrine, Appendix E, page 25a and Appendix B, page 2a.

Godwin's claims in the Statement of the Case above, are purely and simply CONSTITUTIONAL and actions by Moore, et al, invoked a loosely worded State of Alabama directive about Practice of Law. These actions resulted in Godwin being unable to represent his Dead Sister's Estate; a RIGHT awarded to him by the Court of Primary Jurisdiction (Coffee County Probate Court). This Right was taken away by Moore, et al, and Godwin claims violation of his Due Process under provisions of the US Constitution, Amendment XIV.

Godwin's Claims of Conspiracy in this Statement of the Case above under provisions of USC Title, Section 1985 (which enforces Section 2 of the 1871 Civil Rights Act, 17 Stat.13), when Moore, et al, allowed two persons to enter an Alabama Court and threaten and injure Godwin were IGNORED by the US Magistrate Judge, Appendix C, page 7a, District Court and subsequently not addressed in the 11th Cir Affirmation, Appendix B, Page 2a.

Godwin claims that a Jury Trial Right under provisions of the US Constitution, Amendment VII, as related in the Statement of the Case, has been improperly denied by Moore, Et Al. The DENIAL was based purely on a procedural question. The opposition to a Jury Trial was filed in the Alabama Circuit Court. The motion by an outsider, not a party to the Court Hearing, was heeded by the Alabama Circuit Court and a NON-JURY TRIAL was subsequently held.

As stated in the Statement of the Case above, Godwin was barred from representing the Doris Nichols Estate without an attorney on 29 September 2000 but could represent himself. Alabama Rules of Civil Procedure STATES a jury fee MUST BE PAID WITHIN 30 DAYS. Godwin paid the Jury Fee *REPRESENTING HIMSELF* on October 9, 2000, LESS than the 30-day time requirement.

Moore, Et Al, therefore denied the Jury Demand, Statement of the Case above, on the basis that Godwin did not meet the 30-daytime limit. Godwin did meet the time limit

and Moore Et Al consistently denied Godwin's Demand of a Jury Trial in direct violation of the US Constitution, Amendment VII.

These TWO direct violations of Godwin's rights under Amendments XIV and VII were IGNORED by Moore et al. The Rooker-Feldman Doctrine **only** applies if the Constitutional questions were "inextricably intertwined" with the State Cases. Godwin's claims were of Constitutional Violations and were not considered in the deliberations of Moore et al. Accordingly, the Rooker-Feldman Doctrine does not apply in this Case. See *205 F.3d 990 (7th Cir. 2000), Remer v. Burlington Area School District,* which supports Godwin's claim that the US District Court DOES HAVE subject matter jurisdiction

Additionally, the Rooker-Feldman Doctrine has been erroneously applied to Godwin's claims of Civil Rights violations. Godwin's injuries resulted from the LACK of judicial judgments in the State Courts and these injuries go UNREMEDIED. See *Whiteford v. Reed, 3d Cir, No. 97-3652* (9 Sep 1998) which states ... **"this court has consistently held that where a state action does not reach the merits of a plaintiff's claims, then Rooker-Feldman does not deprive the federal court of jurisdiction..."**.

The US District Court and the Defendants claim that judges have immunity in this case.

Godwin claims that injunctive relief can be granted under provisions of the USC Title 42, Section 1983 since the Constitutional violations specified in the Complaint as related in the Statement of the CASE above, WERE NOT considered on their merits and were, in fact ignored. Moore, et al, deprived Godwin of his rights and privileges and Godwin is seeking redress in this Civil action.

CONCLUSION

Petitioner Godwin concludes that the US District Court improperly dismissed Godwin's Complaint against Moore et al because the MERITS of the Case were not ruled on. Therefore, the Rooker-Feldman Doctrine does not apply.

Further, the Civil Rights violations specified in Godwin's Complaint and in the Statement of the Case above have not been considered since the US District Court of the Middle District of Alabama rapidly invoked the Immunity provisions without first considering the MERITS of the Case.

Therefore, Petitioner Godwin respectfully requests that a Writ against the US Court of Appeals of the Eleventh Circuit, which affirmed the judgment of the US District Court, be granted.

Respectfully submitted:

Julian C. Godwin, Pro Se
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APPENDICES

Appendix A

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 02-10192 BB

JULIAN C. GODWIN,
Godwin \P, Julian C.,
Plaintiff-Appellant,

versus

ROY S. MOORE,
Chief Justice, Alabama Supreme Court,
SHARON YATES,
Presiding Judge, Alabama Court of Civil Appeals,
WILLIAM R. KING, III,
Special Judge to the Alabama 12th Circuit Court,
Defendants-Appellees.

On Appeal from the United States District Court
for the Middle District of Alabama

BEFORE: ANDERSON, BLACK and MARCUS,
Circuit Judges.

PER CURIAM: The petition(s) for rehearing filed by appellant, Julian C. Godwin, is DENIED.

ENTERED FOR THE COURT: Signed, US Circuit Judge

Appendix B

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 02-10192
Non-Argument Calendar

D.C. Docket No. 01-0876-CV-AS-N

Julian C. Godwin
Plaintiff-Appellant
Versus
Roy S. Moore,
Chief Justice, Alabama Supreme Court
Sharon Yates,
Presiding Judge, Alabama Court of Civil Appeals,
et al
Defendants-Appellees

Appeal from the United States District Court
for the Middle District of Alabama

August 9, 2002

Before Anderson, Black, and Marcus, Circuit Judges,

PER CURIAM:

Julian C. Godwin, pro se, appeals the dismissal of his complaint against Alabama Judge William King III, Alabama Court of Appeals Presiding Sharon Yates, and Alabama Supreme Court Chief Justice Roy Moore for lack of subject matter jurisdiction pursuant to the Rooker-Feldman Doctrine. Godwin sued the defendants for civil rights violations pursuant to 42 USC Sections 1983, 1985, and 1986. Each defendant judge had a role in an Alabama state court action which Godwin filed in order to contest his sister's mental capacity to execute a quitclaim deed.

Godwin's sister, Doris, survived her late husband, Mack, and received his assets at his death. Godwin took care of Doris's physical and financial health, and was named her power of attorney. Mack's nephew and daughter-in-law began claiming that rather than wanting Doris to receive the entire estate, Mack would have wanted an equal distribution. Afraid that his sister's economic situation would deteriorate, Godwin took $250,000.00 from Doris's bank account and deposited half of that amount in his account and half in Warren's. Warren was Godwin and Doris's other sister. After this transaction, Doris's caretakers expressed concern that Godwin was stealing from her. Doris became suspicious and ultimately revoked Godwin's power of attorney. She also revoked her will which had named her sister Warren as the residuary legatee and executrix. A month later, Doris executed a quitclaim deed to her daughter-in-law for the real property that she had inherited from her late husband.

After Doris died, Warren attempted to probate the first will, which had named her executrix. A few days later, Doris's nephew filed the second will. Warren claimed that the later will was the subject of undue incluence and that Doris had lacked testamentary capacity because of Alzheimer's Disease. While that case was pending Warren died and the probate court issued letters testamentary to Godwin.

Godwin chose to proceed pro se and filed suit in the Circuit Court of Coffee County on behalf of the estate. Judge King was assigned to the case, and he dismissed the suit in September, 2000, because of an Alabama statue prohibiting persons without a law license from representing third parties. That ruling was upheld on appeal, where it was reviewed by Judge Yates. Godwin also filed a writ of mandamus against Judge King, which was denied by Chief Justice Moore. Godwin bases the current lawsuit on these rulings. He also challenges the constitutionality of the Alabama Statue that prohibits unlicensed persons from representing third parties, Ala. Code, section 34-3-6.

The magistrate judge and district court dismissed Godwin's claims against the judges for lack of subject jurisdiction, 12 (b) (1), citing the Rooker-Feldman doctrine. We review questions of subject matter jurisdiction de novo. Singleton v. Apfel, 231 F. 3d 853, 856 (11th Cir. 2000).

The Rooker-Feldman doctrine "provides that federal court, other than the United States Supreme, have no authority to review the final judgments of state courts. The doctrine extends not only to constitutional claims presented or adjudicated by a state court, but also to claims that inextricably intertwined with a state court judgment. A federal claim is inextricably intertwined with a state court judgment if the federal claim succeeds only to the extent that the state court wrongly decided the issues before it". Goodman ex Rel. Goodman v. Sipos, 259 F. 3d 1327, 1332 (11th Cir. 2001) citing Siegel v. Lepore, 234 F. 3d 1163, 1172 (11th Cir 2000) (en banc).

The claims that plaintiff brings here are rightly considered "inextricably intertwined". In order for the plaintiff to prevail, this Court would have to find that the state courts wrongly decided the issues with which they were presented. This is exactly what the Rooker-Feldman doctrine prevents. Thus, as long as the plaintiff had a reasonable opportunity to raise his constitutional claims in the Alabama State Proceedings, we have no subject matter jurisdiction in this case. See Wood v. Orange County, 715 F. 2 d 1543, 1547 (11th Cir. 1983) ("Where the plaintiff has had no such opportunity, he cannot fairly be said to have "failed" to raise the issue" and thus the doctrine has no application).

It is clear from the record that Godwin raised his appeals at every step of the proceeding and thus had every opportunity to present his claims. Thus, the Rooker-Feldman doctrine applies to this case

without exception; we therefore affirm the district court's dismissal pursuant to 12 (b) (1).

The district court also granted the 12 (b) (6) motion for Godwin's claim regarding the constitutionality of Alabama Code section 34-3-6. Godwin claims that "the Alabama Law, in its present form, is UNCONSTITUTIONAL and DENYS (sic) and DEPRIVES the Civil Right (sic) of Plaintiff Godwin to act in representing his Sister's Estate". Complaint at 4. To the extent that he is making an argument that the statue is unconstitutional as applied, this argument is barred by the Rooker-Feldman doctrine. Kirkpatick v. Shaw, 70 F. 3 d 100, 102 (11th Cir. 1995). To the extent that this argument can be interpreted as a facial challenge to the statue, that argument was not fairly presented to the court below and thus we decline to address it.

For the foregoing reasons, the judgment of the district court is AFFIRMED.[1]

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1 Appellant's request for oral argument is DENIED

APPENDIX C

IN THE DISTRICT COURT OF THE UNITED STATES FOR THE MIDDLE DISTRICT OF ALABAMA NORTHERN DIVISION

Julian C. Godwin
Plaintiff

vs. Civil Action NO. 01-A-876-N

Chief Justice Roy Moore, et al
Defendants

RECOMENDATION OF THE MAGISTRATE JUDGE

On 16 July, 2001, pro se plaintiff Julian C. Godwin ("Godwin") filed suit pursuant to 42 USC, Section 1983,1985, and 1986 against the defendants in their official and individual capacities.[1] The defendants in this case are Roy Moore ("Moore"), Chief Justice of the Alabama Supreme Court; Sharon Yates ("Yates"), Presiding Judge, Alabama Court of Appeals; and William R. King ("King"), Circuit Judge, Coffee County, Alabama. Godwin's allegations stem from two lawsuits field in the Circuit Court of Coffee County,

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[1]The plaintiff's ten page complaint does not clearly indicate whether he brings suit against the defendants in their official or individual capacities. However, because the plaintiff proceeds *pro se*, the court will assume that his complaint alleges claims against the defendants in their individual and official capacities. *Harris v. Ostrout Co.*, 65 F.3d 912, 915 (11th Cir.1995) (holding that a pro se plaintiff's complaint must be construed liberally).

Alabama concerning his deceased sister's estate. Specifically, Godwin alleges that Judge King violated his Fourteenth Amendment due process rights by dismissing a lawsuit contesting his sister's mental capacity to execute a quitclaim deed conveying real property inherited from her late husband.[2] Furthermore, Godwin alleges that Judge King violate the Sixth Amendment by denying his untimely request for a jury trial in another lawsuit contesting a 1993 will purporting to be his sister's last will and testament.[3] Godwin also contends that Judge Yates violated his due process rights by dismissing his October 17, 2000 appeal challenging Judge King's order of dismissal.[4] Lastly, Godwin alleges that Chief Justice Moore violated the Sixth and Fourteenth Amendments by denying his March 23, 2001 petition to mandamus Judge King for denying his motion for a jury trial.[5] Godwin seeks compensatory damages and twenty-five million dollars ($25,000,000) in punitive damages.[6] The plaintiff attempts to invoke the court's federal question jurisdiction pursuant to 28 U.S.C. § 1331.

Now pending before the court is the defendants' August 3, 2001, motion to dismiss pursuant to FED.R.CIV.P.12(b)(6)(doc.#11). In this motion, the

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[2] *Compl.*, ¶ 4.

[3] *Compl.*, ¶ 3.

[4] *Id. at* ¶ 4.

[5] *Id. at* ¶ 5.

[6] *Id. at* ¶ 30.

defendants argue that the plaintiff's official and individual capacity claims are precluded by the Eleventh Amendment and the doctrine of judicial immunity.[7] In response to the motion to dismiss, Godwin does not address the defendants' immunity arguments but alleges that this court has jurisdiction to consider what he characterizes as an unconstitutional prohibition on the unauthorized practice of law and his inviolate right to a jury trial.[8] After carefully reviewing the defendants' motion to dismiss and the plaintiff's objection to the motion, the court concludes that the motion to dismiss is due to be granted. However, the court relies on the *Rooker-Feldman* doctrine to conclude that this case is due to be dismissed pursuant to FED. R. CIV. P. 12(B)(1) for lack of subject matter jurisdiction.

STANDARD OF REVIEW

A defendant may move to dismiss a complaint if it fails to allege facts sufficient to invoke the court's subject matter jurisdiction. *See* FED. R. CIV. P. 12(B)(1). In evaluating a motion to dismiss for lack of subject-matter jurisdiction, the court assumes that all factual allegations set forth in the complaint are true. *Haase v. Sessions*, 835 F.2d902, 906 (D.C. Cir. 1987). The court may also consider any pleadings, affidavits, or other evidentiary materials which are relevant to the issue of subject-matter jurisdiction. *Id.* Within the

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[7] Defs' Br. Supp. Mot. to Dismiss, p.3.

[8] Pl's Rep. to Mot. to Dismiss, ¶ 1

framework of this deferential standard, the court examines the specific factual allegations of plaintiff's complaint.

FACTS

The facts[9] as stated by the plaintiff are as follows. Godwin and his sister, Gwen Warren ("Warren"), began playing an active role in the personal and financial affairs of their sister, Dori Nichols ("Doris"), in February 1993 after the death of Doris' husband, Mack Nichols ("Mack").[10] In the months following Mack's death, Doris' health began to deteriorate.[11] Warren was concerned about Doris' ability to take care of her basic needs and consequently, hired several members of Mack's family[12] to provide Doris with twenty-four

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[9] This statement of facts is gleaned from the complaint, the twenty-five (25) exhibits attached to the complaint which consist of documents field in connection with Godwin's two state court lawsuits, and the ten (10) exhibits attached to the plaintiff's Motion to Add Evidence (doc. #13) which also contain documents field in connection with the plaintiff's state court lawsuits. In evaluating FED.R.CIV. P. 12(b)(1) claims, the court may make "appropriate inquiry" beyond the pleading to resolve the issue of subject matter jurisdiction. *Haase v. Session*, 835 F.2d 902, 906 (D.C. Cir. 1987) (citing Gordon v. Nat'l Youth Work Alliance, 675 F.2d 356, 362-63 (D.C. Cir. 1982)). *See also, Region 8 Forest Serv. Timber Purchasers Council*, 993 F.2d 800, 807 n.8 (11th Cir.1993)(observing that conversion feature not applicable to FED.R.CIV.P. 12(b)(1)).

[10] Pl's *Ex.* A, p.72, 76.

[11] *See* Pl's *Ex.* A, p.69, 75-76.

[12] Doris and Mack did not have any children, but Mack had a son from a prior relationship and several family members living in Coffee County. *Compl., Ex.G.*

hour nursing care.[13] Godwin and Warren were also concerned about Doris' ability to manage the sizable estate acquired after her husband's death which consisted of 77 acres of real property and approximately $269,000 in liquid assets.[14] On April 23, 1993, Doris gave Godwin a general power of attorney, authorizing him to transact business on her behalf.[15]

Sometime after receiving the power of attorney, Godwin began to suspect that Mack's relatives were attempting to divest Doris of her property and assets.[16] Loftin Martin ("Martin") and Phyllis Ora Thompson Nichols Casey ("Casey"), Mack's nephew and daughter-in-law, told Doris that Mack did not intend to leave his entire estate to her and insinuated that they would take legal action to insure an equitable division of the estate.[17] Faced with these threats, Godwin and Warren became increasingly concerned about the safety of Doris' assets. In June 1993, Godwin transferred $250,000 from Doris' bank account, depositing $125,000 in his personal bank account and $125,000 in Warren's personal bank account.[18] Shortly after this transaction, Mildred Page ("Page")

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[13] Pl's *Ex.* A, p. 62.

[14] *Id.* at p. 68.

[15] *Id.* at p. 69.

[16] *Id.* at p. 81.

[17] *Id.*

[18] *Id.* at p. 70.

and Jane Owen ("Owen"), the caretakers whom Warren had hired, began telling Doris that they were concerned about Godwin and Warren's management of her financial affairs. Ultimately, Doris began to suspect that Godwin and Warren were stealing from her.[19]

On December 2, 1993 Doris revoked Godwin's power of attorney and gave Martin a durable power of attorney.[20] Eight days later on December 10, 1993, Doris revoked a will executed on September 23, 1991 which named Warren as a residuary legatee and executrix of her estate.[21] In her new will, Doris named Martin as the executor and removed Warren as her sole beneficiary.[22] A month later on January 10, 1994, Doris executed a quitclaim deed to Casey for the 77 acres of real property which she had inherited from Mack.[23]

Doris died on June 27, 1995, and Warren subsequently filed a petition to probate the 1991 will.[24] On July 10, 1995, the Probate Court of Coffee County issued letters testamentary to Warren.[25] Two days later, Martin filed a petition to

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[19] *Id.* at p. 76.

[20] *Id.* at p. 70, 82.

[21] Pl's Mot. to Add New Evidence, *Ex.*A.

[22] *Compl., Ex.* U, p.3

[23] *Id., Ex. G.*

[24] *Id.*

[25] *Compl.*, Ex. B, ¶ 1.

probate the 1993 will.[26] Warren challenged the validity of the 1993 will, arguing that it was the product of undue influence and that Doris lacked testamentary capacity because of an August 1993 diagnosis of Alzheimer's disease.[27] Pursuant to ALA.CODE § 43-8-199 (1975 & Supp.2001),[28] the case was transferred to the Circuit Court of Coffee County and docketed as *In re Estate of Doris G. Nichols*, CV 95-248 (hereinafter "will contest").[29] The case was ultimately assigned to Judge King.[30] Warren died in 1995.[31] However, because Doris' 1991 will did not name an alternate executrix, the probate court issued Godwin letters testamentary to Doris' estate pursuant to ALA.CODE § 43-2-272 (1975 & Supp. 2001).[32] As the newly appointed

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[26] Pl's Mot. to Add Evidence, *Ex.*A.

[27] Pl's *Ex.* A, p.82.

[28] In pertinent part, §43-8-199 provides that:

Any person interested in any will who has not contested the same under the provisions of this article, may, at any time within the six months after the admission of such will to probate in this state, contest the validity of the same by filing a complaint in the circuit court in the county in which such will was probated.

[29] Pl's Mot. to Add Evidence, *Ex.*A.

[30] These cases were ultimately assigned to Judge King after six circuit judges recused themselves.

[31] *Compl., Ex.* B, ¶ 1.

[32] *Id.* This provision authorizes the probate court to appoint a substitute executor from among the persons in the line of intestate succession.

administrator of Doris' estate, Godwin became a party to the will contest.[33] However, he did not hire an attorney, instead deciding to represent the estate *pro se.*

On March 20, 1996, Godwin filed suit in the Circuit Court of Coffee County in a case styled *Julius C. Godwin v. Phyliss Ora Thompson Nichols Casey.*[34] In that case, Godwin alleged that Doris' January 10, 1994 conveyance was fraudulent.[35] He did not hire an attorney but attempted to represent Doris' estate *pro se.* This case was also assigned to Judge King.[36] Pursuant to a timely filed motion to dismissed the fraudulent conveyance case on September 29, 2000.[37] Citing *Godwin v. State ex rel. McKnight*, 784 So.2d 1014 (Ala.200),[38] Judge King reasoned that Godwin's *pro se* representation of Doris' estate violated ALA. CODE § 34-3-6 (1975 & Supp. 2001), which prohibits individuals without a law license from appearing in a representative capacity or filing suit on behalf of a third party.[39]

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[33] Pl's Mot. to Add Evidence, *Ex.*A.

[34] *Compl., Ex.*G

[35] *Id.*

[36] *Id.*

[37] *Id.*

[38] In this case, the Alabama Supreme Court held that plaintiff, as executor of the estate of his deceased daughter, could not file a complaint on behalf of anyone else, even the estate for which he was the duly appointed executor.

[39] in pertinent part, § 34-3-6 provides that:

Id. Godwin appealed Judge King's dismissal of the fraudulent conveyance case to the Alabama Court of Civil Appeals.[40] However, the appellate court agreed with Judge King and held that Godwin's *pro se* representation of Doris' estate violated Alabama's prohibition on the unauthorized practice of law.[41] The Court of Civil Appeals dismissed the case on February 6, 2001.[42]

Judge King also made several rulings in the will contest case. At a September 29, 2000 motion hearing, he permitted Godwin to proceed *pro se* to protect any pecuniary interest which he might have in challenging the probate of the 1993 will.[43] However, Judge King held that Godwin could not represent the interests of Doris' estate *pro se.*[44] At

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(a) Only such persons as regularly licensed have authority to practice law.

(b) For the purposes of this chapter, the practice of law is defined as follows:

Whoever,

(1) In a representative capacity appears as an advocate or draws papers, pleading or documents, or performs any act in connection with proceedings pending or prospective before a court or a body, board, committee, commission or officer constituted by law or having authority to take evidence in or settle or determine controversies in the exercise of the judicial power of the state or any subdivision thereof [.]

[40] *Compl., Ex.I.*

[41] *Id., Ex.*K.

[42] *Id.* Godwin did not appeal this decision to the Alabama Supreme Court.

[43] *Id., Ex.*C.

[44] *Id.*

a December 16, 2000 motion hearing, Judge King denied Godwin's motion for a jury trial as untimely pursuant to ALA. R. CIV.P. 38(d).[45] Although the will contest had been pending since 1995, Godwin did not demand a jury trial until October 9, 2000.[46] Godwin appealed Judge King's denial of his jury demand to the Alabama Court of Civil Appeals, arguing that his untimely jury demand did not prejudice the rights of either party.[47] On December 19, 2000, the Alabama Court of Civil Appeals dismissed the appeal as violative of the final judgement rule.[48] Undaunted, Godwin filed a Petition for a Writ of Mandamus in the Alabama Supreme Court seeking the reversal of Judge King's denial of his motion for a jury trial.[49] The Alabama Supreme Court summarily denied Godwin's mandamus petition on March 23, 2001.[50]

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[45] *Compl., Ex.* L, p.7. The formal procedure for making a jury demand is described in ALA. R. CIV. P.38(b) which provides that: "Any party may demand a trial by jury of any issue triable of right... at any time after the commencement of the action and not later than thirty (30) days after the service of the last pleading directed to such issue." However, ALA. R. CIV. P. 38 (d) provides that "the failure of a party to serve a demand as required by this rule... constitutes a waiver by him of a trial by jury." The decision to grant an untimely jury demand is within the trial court's discretion. *See Cambron v. Carlisle*, 435 So. 2d 1216, 1217 (Ala. 1983) (holding that the trial court's denial of jury demand filed more than one year after service of the last pleading was not an abuse of discretion).

[46] *Id., Ex* P, ¶ 2.

[47] *Id., Ex* L, ¶ 2.

[48] *Id., Ex* M.

[49] *Id., Ex* X.

[50] *Id.*

DISCUSSION

The court does not address the parties' arguments in support of and in opposition to the motion because they erroneously assume that the allegations of the complaint trigger subject matter jurisdiction under 28 U.S.C § 1331. Although the litigants overlook the issue, this court cannot. Federal court are charged with the integral function of making an independent jurisdictional assessment and, if necessary, dismissing *sua sponte* any claims which fall outside of the court's subject matter jurisdiction. *United States v. Hays*, 515 U.S. 737 (1995). *See also, Univ. of S. Alabama v. Amer. Tobocco Co.*, 168 F.3d 405, 410 (11th Cir. 1999) (holding that "[I]t is well-settled that federal court is obligated to inquire into subject matter jurisdiction *sua sponte* whenever it may be lacking.");[51] *Jefferson Fourteenth Assoc. v. Wometco de Puerto Rico, Inc.*, 695 F.2d 524-27 (11th Cir. 1983) (outlining the circumstances under which a federal district court reserves the right to dismiss a case *sua sponte).*

The *Rooker-Feldman* doctrine[52] prohibits federal district courts from reviewing state court decisions

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[51] *See, The Bluebook: A Uniform System of Citation* R. 10.2.2, at 59 (Columbia Law Review Ass'n et. al. eds. 17th ed. 2000(indicating that rule "has been modified to require abbreviation of the first word in a case name in citations when the word appears in table T.6.").

[52] The doctrine takes its name from two United States Supreme Court cases, *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923) and the *District of Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983). *See generally*, Gary Thompson, *The Roooker-Feldman*

and is premised on the rationale that this type of appellate review would be an impressible extension of the district court's subject matter jurisdiction. *See generally,* Gary Thompson, *The Rooker-Feldman Doctrine and the Subject Matter Jurisdiction of the Federal District Court,* 42 Rutgers L. Rev. 859, 859-860 (1990). As described by the Eleventh Circuit, the doctrine

> [P]rovides that federal courts, other than the United States Supreme Court, have no authority to review the final judgments of state courts. The doctrine extends not only to constitutional claims presented or adjudicated by the state court, but also to claims that "*inextricably intertwined*" with a state court judgement. A federal court claim is inextricably intertwined with a state court judgement if the federal claim succeeds only to the extent that the state court wrongly decided the issues before it . . . and if . . . the plaintiffs had a reasonable opportunity to present their federal claims in the state court proceedings.

Goodman v. Sipos, 259 F.3d 1327, 1330 (11th Cir. 2001) (internal citations omitted) (emphasis added). The *Goodman* court explained that the doctrine "focus[es] on the federal claim's relationship to the issues involved in the state court proceedings, instead of the type of relief sought by the plaintiffs." 259 F3d at 1329. Consequently, this circuit has consistently applied the *Rooker-Feldman* doctrine in situations where the federal district court's resolution of the issues

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Doctrine and the Subject Matter Jurisdiction of the Federal District Court, 42 Rutgers L. Rev. 859 (1990).

raised in the complaint would effectively nullify a state court's judgement. *See e.g., Goodman,* 259 F3 at 1330 (holding that the plaintiff's allegations that the state juvenile court's *ex parte* proceeding violated her due process rights were governed by the *Rooker-Feldman* doctrine because these allegations "str[uck] at the heart of the state court's proceedings and judgment . . .."); *Powell v. Powell,* 80 F.3d 464, 467 (11th Cir.1996) (dismissing plaintiff's lawsuit challenging the constitutionality of the Uniformed Services Former Spouses' Protection Act because it was inextricably intertwined with the state court's judgment awarding a portion of the plaintiff's military retirement to his ex-wife); *Blue Cross and Blue Shield of Maryland, Inc. v. Weiner,* 868 F.2d 1550, 1156-1157 (11th Cir. 1989) (holding that doctrine deprived district court of subject matter jurisdiction to address issues related to ERISA preemption because it would be required to review the essential components of the state court's judgment).

In briefs filed in the Alabama Court of Civil Appeals and the Alabama Supreme Court, Godwin made vague allegations about the unconstitutionality of ALA. CODE § 34-3-6[53] and ALA. R. CIV. P.38(d). However, Godwin essentially challenges the application of these provisions, not their constitutionality. Consequently, neither state appellate court addressed the issue of whether ALA. CODE § 34-3-6 or ALA. R. CIV. P.38(d) violated the Fourteenth or Sixth amendments. Godwin's allegations in this case are couched in

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[53] *See Compl., Ex.I,* p.10, 12.

the language of § 1983, § 1985, and § 1986 – causes of action which are indisputably within the scope of this court's federal question jurisdiction. However, the court concludes that these federal claims are inextricably intertwined with state appellate court judgments because the success of plaintiff's federal claims depends on determination that the Alabama Court of Civil Appeals wrongly decide issues relating to the applicability of § 34-3-6 and that the Alabama Supreme Court wrongly decided that the trial court abused its discretion by denying plaintiff's untimely request for a jury trial. Simply put, the court cannot resolve issues of constitutionality without conducting what would be tantamount to a *de novo* review of the judgments of the Alabama Court of Civil Appeals and the Alabama Supreme Court. The possibility for this type of appellate review is precisely the type of situation, which is forbidden by the *Rooker-Feldman* doctrine.

An important limitation on the applicability of the doctrine occurs when the plaintiff did not have a reasonable opportunity to raise his federal claims in a state court proceeding. *Powell,* 80 F.3d at 467 (11th Cir. 1996) (citing *Wood v. Orange County,* 715 F.2d 1543, 1546 (11th Cir. 1983)). In *Wood,* The court held that the doctrine did not compel the dismissal of the plaintiffs' lawsuit challenging the constitutionality of attorney's liens because "[T]here were no ongoing state proceedings in which plaintiffs could have raised and received a judicial determination of their constitutional claims." 715 F.2d at 1544. However, the barriers that precluded the application of the Rooker-Feldman doctrine in Wood do not exist in this case.

State courts have concurrent jurisdiction with federal courts to adjudicate claims arising under 42 U.S.C. § 1983, and such actions may be initiated in state courts. *See Maine v. Thiboutot,* 448 U.S. 1,3 n.1 (1980). Furthermore, absent congressional intent to vest exclusive jurisdiction of federal claims in federal courts, state courts have concurrent jurisdiction to enforce rights under any federal statute, including § 1985 and § 1986. *See Martinez v. California,* 444 U.S. 277, 283-84 n.7 (1980). These jurisdictional principles clearly demonstrate that Godwin had the opportunity to challenge the constitutionality of ALA. CODE § 34-3-6 in the Circuit Court of Coffee County and could have appealed any adverse judgment in the circuit court to the Alabama Court of Civil Appeals and the Alabama Supreme Court. Similarly, Godwin had the opportunity to challenge the constitutionality of ALA. R. CIV. P. 38(d) in the Circuit Court of Coffee County, the Alabama Court of Civil Appeals, or the Alabama Supreme Court. Consequently, because the plaintiff's federal claims could, and should, have been raised in state court, and not in federal district court in what is essentially a collateral attack on the judgments of the Alabama Court of Civil Appeals and the Alabama Supreme Court, the court concludes that the *Rooker-Feldman* applies to all the allegations of the plaintiff's complaint.

CONCLUSION

For the reasons as stated, the court concludes that, under the *Rooker-Feldman* doctrine, the state court proceedings are dispositive of the plaintiff's

claims and this case is due to be dismissed for lack of subject matter jurisdiction. Accordingly, it is the RECOMMENDATION of the Magistrate Judge that, pursuant to FED. R. CIV. P. 12(b)(1), the defendants' motions to dismiss be granted.

Done this the 4 day of October, 2001.

/s/ Signed/

CHARLES S.COODY
UNITED STATES MAGISTRATE JUDGE

Appendix D

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

Julian C. Godwin,
Plaintiff,
vs.
CHIEF JUSTICE ROY MOORE, et al.,
Defendants.

SUPPLEMENTAL RECOMENDATION

Currently pending before the court is *pro se* plaintiff Julian C. Godwin's (Godwin) October 16, 2001 Reply to the Recommendation of the Magistrate Judge (doc.#16) which the court construes as an objection to its October 4, 2001 recommendation (doc.#12). According to Godwin, the court erroneously identified the source of his constitutional right to a jury trial in a civil case and applied the *Rooker-Feldman* doctrine to the facts of this case.[1]

The court agrees that its recommendation erroneously indicated that Godwin's lawsuit alleged violations of the Sixth Amendment. Instead, Godwin alleged that the defendants violated his Seventh Amendment right to a jury trial in a civil case. However, the court disagrees with Godwin's

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[1] Specifically, Godwin alleges that, because he did not have an opportunity to raise his federal claims in the state court proceedings, the federal claims presented in this lawsuit are not "inextricably intertwined" with the judgments of the Alabama Court of Civil Appeals and the Alabama Supreme Court See Reply to Rec. of Mag.J.,¶¶ 5-12.

argument that it erroneously applied the *Rooker-Feldman* doctrine. Accordingly, all portions of the recommendation referring to the Sixth Amendment be and are hereby VACATED and the term Seventh Amendment be and is hereby SUBSTITUTED in its place. As to all matters, the RECCOMENDATION of the Magistrate Judge remains the same.

Done this 15 day of November 2001.

/s/ Signed /s/
CHARLES S. COODY
UNITED STATES MAGISTRATE JUDGE

APPENDIX E

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

JULIAN C. GODWIN,
Plaintiff,

vs. CIVIL ACTION NO.01-A-876-N

CHIEF JUSTICE ROY MOORE, et al.,
Defendants.

ORDER

Upon an independent evaluation of this matter, including the Recommendation of the Magistrate Judge entered on October 4, 2001, the objection filed by the Plaintiff on October 16, 2001, and the Supplemental Recommendation entered by the Magistrate Judge on November 15, 2001, the court finds the objection to be without merit, and it is hereby overruled. The court agrees with the Magistrate Judge that this court is without jurisdiction over this case by virtue of the *Rooker-Feldman* doctrine. Therefore, the Recommendation of the Magistrate Judge, as modified by the Supplemental Recommendation, is adopted, and it is hereby

ORDERED that Defendants' Motions to Dismiss are GRANTED, and this case is DISMISSED for lack of subject matter jurisdiction.

Costs are taxed against the Plaintiff.

DONE this 11 day of December, 2001.

// SIGNED //
W. HAROLD ALBRITTON
CHIEF UNITED STATES
DISTRICT JUDGE